FEDERAL REGISTER

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Washington, Tuesday, May 23, 1939

Rules, Regulations, Orders

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

NOTICE UNDER PACKERS AND STOCKYARDS ACT[1]

MAY 20, 1939.

To JOE GALLAGHER AND B. WANSER,
Doing business as O'Neill Livestock Market, Stockyard owner, at O'Neill, State, Nebraska.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U.S.C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as O'Neill Livestock Market, at O'Neill, State of Nebraska, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U.S.C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-1750; Filed, May 20, 1939; 12:18 p. m.]

NOTICE UNDER PACKERS AND STOCKYARDS ACT[1]

MAY 20, 1939.

To M. FREDRICKSON,
Doing business as Bassett Livestock Sales Company, Stockyard owner at Bassett, State, Nebraska.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U.S.C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Bassett Livestock Sales Company, at Bassett, State of Nebraska, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U.S.C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-1751; Filed, May 20, 1939; 12:18 p. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

[Amendment 12, Civil Air Regulations]

APPLICATION FOR AIR CARRIER OPERATING CERTIFICATE NEED NOT BE SUBSCRIBED UNDER OATH

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 16th day of May 1939.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a), 604 (a) and 608 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under said Act, the Civil Aeronautics Authority hereby amends the Civil Air Regulations as follows:

Section 40.61 of Part 40 of the Civil Air Regulations, as amended, is amended by striking the phrase "and subscribed under oath by the applicant,".

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 39-1761; Filed, May 22, 1939; 12:21 p. m.]

[1] Modifies list posted stockyards 9 CFR 204.1.

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FEDERAL REGISTER

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TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4901]

PART 85—GIFT TAX

VALUATION OF STOCKS AND BONDS

To Collectors of Internal Revenue and Others Concerned:

Subdivision (1) of article 19 of Regulations 79, 1936 Edition (section 85.19 of Title 26, Code of Federal Regulations), and that article as made applicable to the Internal Revenue Code by Treasury Decision 4885, approved February 11, 1939[1] (Part 465, Subpart B, of such Title 26), is amended to read as follows:

"(1) *General.* The statute provides that if the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift. The value of the property is the price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell. The value of a particular kind of property is not to be determined by a forced sale price. Such value is to be determined by ascertaining as a basis the fair market value at the time of the gift of each unit of the property. For example, in the case of shares of stock or bonds, such unit of property is a share or a bond. All relevant facts and elements of value as of the time of the gift should be considered."

Subdivision (3) of article 19 of Regulations 79, 1936 Edition (section 85.19 of Title 26, Code of Federal Regulations), and that article as made applicable to the Internal Revenue Code by Treasury Decision 4885, approved February 11, 1939 (Part 465, Subpart B, of such Title 26), is amended to read as follows:

"(3) *Stocks and bonds.* The value at the date of the gift in the case of stocks and bonds, within the meaning of the statute, is the fair market value per share or bond on such date.

"In the case of stocks and bonds listed on a stock exchange the mean between the highest and lowest quoted selling prices on the date of the gift shall be considered as the fair market value per share or bond. If there were no sales on the date of the gift, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the date of the gift (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the date of the gift, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the date of the gift. For example, assume that sales of stock nearest the date of the gift (June 15) occurred two days before (June 13) and three days after (June 18) and that on such days the mean sale prices per share were $10 and $15, respectively. The price of $12 shall be taken as representing the fair market value of a share of such stock as of the date of the gift. If, however, on June 13 and June 18 the mean sale prices per share were $15 and $10, respectively, the price of $13 shall be taken as representing the fair market value of a share of such stock as of the date of the gift. If the security was listed on more than one exchange, the records of the exchange where the security is principally dealt in should be employed. In valuing listed stocks and bonds the donor should observe care to consult accurate records to obtain values as of the date of the gift.

"In the case of stocks and bonds which are not listed upon an exchange, but are dealt in through brokers, or have a market, the fair market value shall be determined by taking the mean between the highest and lowest selling prices as of the date of the gift; or, if there were no sales on that date, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the date of the gift (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the date of the gift, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the date of the gift. If quotations are obtained from brokers, or evidence as to the sale of securities is obtained from the officers of the issuing companies, the donor should preserve in his files the letters furnishing such quotations or evidence of sale for inspection when the return is verified by an investigating officer.

"If actual sales are not available during a reasonable period beginning before and ending after the date of the gift, the fair market value may be determined by taking the mean between the bona fide bid and asked prices on the nearest date before and the nearest date after the date of the gift (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the date of the gift, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the date of the gift.

"If actual sale prices or quoted bona fide bid and asked prices are available on a date within a reasonable period prior to the date of the gift, and if no actual sale prices or bona fide bid and asked prices are available on a date within a reasonable period after the date of the gift, or vice versa, then the mean between such highest and lowest available sale prices or bid and asked prices may be taken as the value.

"If actual sales or bona fide bid and asked prices are not available, then, in the case of corporate or other bonds, the value is to be arrived at by giving consideration to the soundness of the security, the interest yield, the date of maturity, and other relevant factors, and, in the case of shares of stock, upon the basis of the company's net worth, earning power, dividend-paying capacity, and all other relevant factors having a bearing upon the value of the stock.

[1] 4 F.R. 879 DI.

Complete financial and other data upon which the donor bases his valuation should be submitted with the return.

"In cases in which it is established that the value per bond or share of any security determined on the basis of selling or bid and asked prices as herein provided does not reflect the fair market value thereof, then some reasonable modification of such basis or other relevant facts and elements of value shall be considered in determining fair market value."

(This Treasury Decision is prescribed pursuant to the following sections of law: Sections 1005 and 1029 of the Internal Revenue Code (53 Stat. Part 1); and sections 506 and 530 of the Revenue Act of 1932 (47 Stat. 248, 259; 26 U.S.C. 555, 579).)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, May 18, 1939.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39-1748; Filed, May 20, 1939; 11:28 a. m.]

[T. D. 4902]

PART 80—ESTATE TAX

VALUATION OF STOCKS AND BONDS

To Collectors of Internal Revenue and Others Concerned:

Subdivision (a) of article 10 of Regulations 80, 1937 Edition,[1] (section 80.10 of Title 26, Code of Federal Regulations), and that article as made applicable to the Internal Revenue Code by Treasury Decision 4885, approved February 11, 1939[2] (Part 465, Subpart B, of such Title 26), is amended to read as follows:

"(a) *General.* The value of every item of property includible in the gross estate is the fair market value thereof at the time of the decedent's death; or, if the executor elects in accordance with the provisions of article 11, it is the fair market value thereof at the date therein prescribed or such value adjusted as therein set forth. The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell. The fair market value of a particular kind of property includible in the gross estate is not to be determined by a forced sale price. Such value is to be determined by ascertaining as a basis the fair market value as of the applicable valuation date of each unit of the property. For example, in the case of shares of stock or bonds, such unit of property is a share or a bond. All relevant facts and elements of value as of the applicable valuation date should be considered in every case."

[1] 2 F.R. 2324.
[2] 4 F.R. 879 DI.

Subdivision (c) of article 10 of Regulations 80, 1937 Edition (section 80.10 of Title 26, Code of Federal Regulations), and that article as made applicable to the Internal Revenue Code by Treasury Decision 4885, approved February 11, 1939 (Part 465, Subpart B, of such Title 26), is amended to read as follows:

"(c) *Stocks and Bonds.* The value of stocks and bonds, within the meaning of the statute, is the fair market value per share or bond on the applicable valuation date.

"In the case of stocks and bonds listed on a stock exchange the mean between the highest and lowest quoted selling prices on the valuation date shall be considered as the fair market value per share or bond. If there were no sales on the valuation date, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the valuation date (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the valuation date, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the valuation date. For example, assume that sales of stock nearest the valuation date (June 15) occurred two days before (June 13) and three days after (June 18) and that on such days the mean sale prices per share were $10 and $15, respectively. The price of $12 shall be taken as representing the fair market value of a share of such stock as of the valuation date. If, however, on June 13 and June 18 the mean sale prices per share were $15 and $10, respectively, the price of $13 shall be taken as representing the fair market value of a share of such stock as of the valuation date. If the security was listed on more than one exchange, the records of the exchange where the security is principally dealt in should be employed. In valuing listed stocks and bonds the executor should observe care to consult accurate records to obtain values as of the applicable valuation date.

"In the case of stocks and bonds which are not listed upon an exchange, but are dealt in through brokers, or have a market, the fair market value shall be determined by taking the mean between the highest and lowest selling prices as of the valuation date; or, if there were no sales on that date, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the valuation date (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the valuation date, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the valuation date. If quotations are obtained from brokers, or evidence as to the sale of securities is obtained from the officers of the issuing companies, the executor should preserve in his files the letters furnishing such quotations or evidence of sale for inspection when the return is verified by an investigating officer.

"If actual sales are not available during a reasonable period beginning before and ending after the valuation date, the fair market value may be determined by taking the mean between the bona fide bid and asked prices on the nearest date before and the nearest date after the valuation date (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the valuation date, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the valuation date.

"If actual sale prices or quoted bona fide bid and asked prices are available on a date within a reasonable period prior to the valuation date, but if no actual sale prices or bona fide bid and asked prices are available on a date within a reasonable period after the valuation date, or vice versa, then the mean between such highest and lowest available sale prices or bid and asked prices may be taken as the value.

"If actual sales or bona fide bid and asked prices are not available, then, in the case of corporate or other bonds, the value is to be arrived at by giving consideration to the soundness of the security, the interest yield, the date of maturity, and other relevant factors, and, in the case of shares of stock, upon the basis of the company's net worth, earning power, dividend-paying capacity, and all other relevant factors having a bearing upon the value of the stock. Complete financial and other data upon which the valuation is based should be submitted with the return.

"In cases in which it is established that the value per bond or share of any security determined on the basis of selling or bid and asked prices as herein provided does not reflect the fair market value thereof, then some reasonable modification of such basis or other relevant facts and elements of value shall be considered in determining fair market value.

"The full value of securities pledged to secure an indebtedness of the decedent should be included in the gross estate. If the decedent had a trading account with the broker, all securities belonging to the decedent and held by the broker at the date of death must be included at their fair market value as of the applicable valuation date. Securities purchased on margin for the decedent's account and held by the broker should also be returned at their fair market value as of the applicable valuation date. The amount of the decedent's indebtedness to the broker or other person with whom securities were pledged will be allowed as a deduction from the gross

estate in accordance with articles 29, 36, and 52. (See article 12 for manner of listing and describing stocks and bonds.)"

(This Treasury Decision is prescribed pursuant to the following sections of law: Sections 811, 937, and 3791 (a) (1) of the Internal Revenue Code (53 Stat. Part 1); section 302 of the Revenue Act of 1926 (44 Stat. 70), as amended by section 404 of the Revenue Act of 1934 (48 Stat. 754; 26 U.S.C. 411) and section 202 of the Revenue Act of 1935 (49 Stat. 1022; 26 U.S.C., Sup. IV, 411 (j)); section 1101 of the Revenue Act of 1926 (44 Stat. 111; 26 U.S.C. 1691); and section 403 of the Revenue Act of 1932 (47 Stat. 245), as amended by section 403 (f) of the Revenue Act of 1934 (48 Stat. 753; 26 U.S.C. 537).)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, May 18, 1939.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39-1749; Filed, May 20, 1939; 11:28 a. m.]

TITLE 29—LABOR

WAGE AND HOUR DIVISION

PART 522—REGULATIONS APPLICABLE TO THE EMPLOYMENT OF LEARNERS PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT OF 1938

The following Regulations—Part 522, as amended (Regulations Applicable to the Employment of Learners Pursuant to Section 14 of the Fair Labor Standards Act of 1938) is hereby issued. These regulations repeal and supersede all regulations previously issued applicable to the employment of learners and shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER, and shall be in force and effect until repealed by regulations hereafter made and published.

Signed at New York, New York, this 20th day of May 1939.

ELMER F. ANDREWS,
Administrator.

§ 522.1 *Application for learners.* Application may be made by any employer to the Administrator of the Wage and Hour Division, Department of Labor, Washington, D. C., to employ learners in a specified plant at a wage lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act, whenever employment of learners at such lower rate is believed necessary to prevent curtailment of employment opportunities in such plant. Separate applications must be made with respect to each plant in which the applicant desires to employ learners at a wage lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act.

§ 522.2 *Applications on official forms.* All applications must be made upon official forms furnished on request by the Wage and Hour Division and must contain all information required by such form. Any application which fails to present the information required by the form will not be considered by the Administrator or his authorized representative but will be returned to the applicant with a notation of deficiencies and without prejudice against submission of a new application. Any applicant may also submit such additional information as he may believe to be pertinent.

§ 522.3 *Posting notice of application in plant.* At the time of filing an application, the applicant must post a notice thereof on a form supplied by the Wage and Hour Division in a conspicuous place in each department of his plant where he proposes to employ learners at wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act. Such notice must contain all the information required therein and shall remain posted until such time as the application shall have been acted upon by the Administrator or his authorized representative.

§ 522.4 *Industry hearing.* The Administrator or his authorized representative may, if he deems it advisable, prior to granting any application, hold a hearing for an industry or branch thereof to determine the occupation or occupations which require a learning period, to determine the factors which may have a bearing upon curtailment of opportunities for employment within the industry and to determine under what limitation as to wages, time, number, proportion and length of service special certificates may be issued to employers for any such occupation or occupations in the industry. Such a hearing may be called upon one or more applications in accordance with subparagraph c of Section 522.5 or upon request of any person or group of persons representing an industry or branch thereof.

§ 522.5 *Procedure upon application for special certificate.* Upon consideration of the facts and reasons stated in the application, the Administrator or his authorized representative, with or without requesting the applicant to furnish further information, shall

a. Deny the application on the ground that it fails to show

(1) that the occupation or occupations specified therein require such skill as to necessitate a learning period,

or

(2) that such denial will result in the curtailment of opportunities for employment;

or

b. Issue immediately a Special Certificate upon the facts shown in the application and publish in the FEDERAL REGISTER and by general press release a statement of the terms of the Special Certificate and a notice that for fifteen days following such publication the Administrator will receive written objections to such Special Certificate and requests for hearing from any persons interested, including but not limited to, employees, employee groups, and labor organizations. A Special Certificate so issued shall, to the extent stated in the certificate, operate as an exemption from Section 6 of the Act unless it is subsequently cancelled as provided in this paragraph. Upon receipt of written objection and request for hearing, if adequate and detailed grounds for objection are set forth, the Administrator or his authorized representative will set the question of the affirmance or the cancellation of the Special Certificate for hearing, or will make other provisions affording the applicant and any other interested person an opportunity to present evidence or argument and, as a result thereof, shall either (1) affirm the Special Certificate as issued, or (2) cancel the same as of the date of its issuance, whereupon no employee shall be deemed to have been employed under a Special Certificate issued under Section 14 of the Act and reimbursement of all persons employed pursuant to the terms of the cancelled Special Certificate must be made in an amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such persons. No such order, either affirming or cancelling a Special Certificate, shall become effective until after the expiration of the time allowed for the filing of a petition for review under Section 522.13, and, if a petition for review is filed thereunder, the effective date of the order affirming or cancelling the Special Certificate shall be postponed until final action is taken on such petition.

or

c. Hold a hearing or make other provision affording interested parties an opportunity to present evidence or argument upon the application or upon a group of applications filed by persons in the same industry presenting related issues of law or fact, and as a result thereof issue or deny Special Certificates to any or all of the applicants involved. In the event that a Special Certificate is granted pursuant to such hearing, it shall become effective, in the discretion of the Administrator or his authorized representative, either (1) immediately upon publication, in which case, if, after review pursuant to the provisions set forth in Section 522.13, the Special Certificate is found to have been erroneously issued, the Special Certificate shall cease to be effective as of the date of publication of the cancellation, or (2) after the expiration of the time allowed for the filing of a petition for review under Section 522.13, and, if a petition for review is filed thereunder, the effec-

tive date of the Special Certificate shall be postponed until final action is taken on such petition.

§ 522.6 *Procedure for hearings.* Any hearing held pursuant to these regulations will be conducted by the Administrator or an authorized representative. A notice of the time, place and scope of such a hearing will be published in the FEDERAL REGISTER and made public by a general press release at least five days before the date of the hearing. The applicant shall in all cases be given notice by registered mail of any hearing to be held for the purpose of determining whether any special certificate shall be cancelled. Any persons interested, including employees, employee groups, labor organizations, employers, employer groups and trade associations will be afforded an opportunity to present evidence and to be heard. The Administrator or his authorized representative may cause to be brought before him at such hearing any witness whose testimony he deems material to the matters in issue.

§ 522.7 *Designation of learners in employer's records.* Each worker employed as a learner under a Special Certificate shall be designated as such in the payroll records kept by the employer. All persons so employed shall be listed together in a separate group in the payroll records kept by such employer.

§ 522.8 *Prohibition, false evidence.* 1. No employer shall employ any employee under a Special Certificate in violation of any of the terms thereof.

2. A Special Certificate shall be null and void if the applicant shall have set forth any fact or facts in his application which he knew or had reasonable cause to believe to be false.

§ 522.9 *Terms of special certificates.* No Special Certificate shall be applicable to more than one plant. Each Special Certificate shall specify the number of learners who may be employed under the certificate, the learning period, the time when and the wage rate at which such persons may be employed.

§ 522.10 *Notice of issuance or cancellation of special certificates.* Notice of the issuance or cancellation of each Special Certificate pursuant to these regulations shall be published in the FEDERAL REGISTER.

§ 522.11 *Posting of special certificate or cancellation thereof.* The employer shall post a copy of any Special Certificate issued to him in a conspicuous place in each department of the plant where learners are to be employed and shall also post a copy of any cancellation thereof.

§ 522.12 *Completion of learning period.* When any worker has been employed as a learner under a Special Certificate for the length of time authorized by such Special Certificate, the employer shall execute in triplicate a statement to that effect on forms to be obtained from the Wage and Hour Division. The original thereof shall be given to the worker, one copy shall be retained by the employer in his records and one copy shall be forwarded to the Wage and Hour Division.

§ 522.13 *Petition for review.* Any person aggrieved by the action of an authorized representative of the Administrator following an industry hearing under Section 522.4, or by way of denying of granting a special certificate under sub-paragraph A or C, of Section 522.5, or by way of affirming or cancelling a special certificate under paragraph b of Section 522.5 may, within fifteen days after publication of such action, file a petition for review thereof. The petition for review will be examined by the Administrator or an authorized representative who has taken no part in the action which is the subject of review. If this petition is granted, all interested parties will be afforded an opportunity to present their views either in support of or in opposition to the matters prayed for in the petition and the Administrator or an authorized representative who had taken no part in the action under review may hold a hearing thereon. Action taken upon such review shall be final and shall take effect immediately upon publication.

EXPLANATION OF REGULATIONS APPLICABLE TO EMPLOYMENT OF LEARNERS

Section 14 of the Fair Labor Standards Act provides that the Administrator, to the extent necessary in order to prevent curtailment of opportunities for employment, shall issue special certificates permitting the employment of learners at wages lower than the minimum wage applicable under the Act. Pursuant to this section the Administrator, prior to October 24, 1938, issued regulations setting forth a procedure whereby applications could be made for the issuance of such certificates. These regulations are contained in Title 29, Chapter V of the Code of Federal Regulations, Part 522. Experience under the original regulations has indicated the advisability of certain changes therein and the accompanying regulations are therefore substituted for the original regulations. The new regulations provide official forms upon which applications for learners' certificates must be filed. These forms will be furnished by the Wage and Hour Division upon request.

In order to eliminate as far as possible the filing of applications which are plainly not justified on the facts presented, the Wage and Hour Division has prepared this explanation of the purposes and use of the new regulations and the official forms with emphasis upon certain basic requirements which must necessarily be met by any applicant before a learners' certificate can issue. It is suggested therefore that applicants for learners' certificates should consult carefully the following explanation.

I. Learners' Applications Filed Prior to Adoption of Accompanying Regulations

The amended regulations, Part 522, and the official forms become effective upon publication. Persons who have made or hereafter make application for learners' certificates on any form other than an official form are required by the accompanying regulations to resubmit their applications upon the appropriate official form; and unless applications received before the issuance of these regulations are resubmitted before June 15, 1939, on an official form, the Wage and Hour Division will assume that the application has been allowed to lapse and that a learners' certificate is no longer sought. Of course, even after June 15, 1939, any person can make application for a learners' certificate upon the appropriate official form.

II. Learners' Certificates Cannot Be Retroactive

The Act permits employment of learners at a wage lower than the minimum only under a special certificate issued by the Wage and Hour Division. Under Section 14 of the Act, the employment of learners at such lower wage when no special certificate has been issued cannot be made lawful by the subsequent issuance of a special certificate. Consequently it is a violation of the Act to employ any employee at less than the minimum wage when no special certificate has been issued even though a proper application for a special certificate has been made.

III. Subject of an Application—Learners

The Administrator can only entertain applications for special certificates for the employment of persons who are "learners" within the meaning of the Act. The term "learners," as used in the Act, means beginners at a skilled occupation. Unless an occupation demands of the worker training and skill, which is normally evidenced in higher earnings for experienced workers, a beginner at that occupation will not be deemed a "learner." It follows that an application should be made only for the employment of inexperienced workers at a *skilled* occupation and that the application must describe in detail the factors which are believed to make the occupation a skilled occupation.

IV. The Learner's Wage

The minimum for learners will be fixed by the Wage and Hour Division, but an application for the employment of learners must state the wage lower than the

statutory minimum at which it is sought to employ the learners. In the event that the Administrator or his authorized representative, after a public hearing for the industry, has determined for the applicant's industry the wage at which learners may be employed in the occupation for which the applicant is seeking learners, the learner's wage sought must not be lower than that determined by the Administrator or his authorized representative.[1] In any event the wage requested by the applicant should not be lower than that necessary to prevent curtailment of opportunities for employment. It was not the purpose of the Act to make the employment of learners more advantageous to the employer than the employment of experienced workers. Consequently if experienced workers at the occupation for which learners are sought are paid by the applicant on a piece work basis, the learners must be paid at the same piece rate as the experienced workers with an additional guarantee of the minimum hourly wage provided in the special certificate.

V. Learning Period

The length of the learning period will be fixed by the Wage and Hour Division, but an application must state the length of time during which the learner is sought to be employed at a wage less than the statutory minimum. In the event that the Administrator or his authorized representative, after a public hearing for the industry, has determined for the applicant's industry the length of the learning period for the occupation in which the applicant is seeking to employ learners, the learning period sought must not be longer than the period determined by the Administrator or his authorized representative.[1] With respect to piece workers the learning period sought should not be longer than the time required by the learner to develop sufficient skill and dexterity to earn the statutory minimum wage when paid at a rate equal to the rate regularly paid by the applicant to experienced workers. If this period of time is shorter than four weeks, only exceptional circumstances could establish that the employment of learners at a wage lower than the statutory minimum is necessary to prevent curtailment of opportunities for employment.

VI. Curtailment of Opportunities for Employment

The Administrator is authorized to provide for the employment of learners at a wage lower than the statutory minimum wage only upon proof that such employment is necessary to prevent curtailment of opportunities for employment. No application will be deemed to set forth a necessity to prevent curtailment of such opportunities unless both of the following points are clearly established. An application must, therefore, contain full statements with respect to both of these points with reference to the plant involved in the application, Otherwise, the Administrator will deny the application for failure to allege facts sufficient to support a finding that both of the following points have been established.

Point number one. The application must show that experience workers are not available to do the work for which learners are requested. The employment of inexperienced labor where experienced labor is available cannot be shown to be "necessary to prevent curtailment of opportunities for employment." An applicant's allegation that experienced workers are not available should be supported by a full statement of all efforts made by the applicant to secure experienced workers. Wherever possible corroborative evidence should be submitted.

Point number two. The applicant must establish that the employment at the wage established pursuant to the Fair Labor Standards Act of the number of persons sought to be employed as learners will so increase his cost of production (a) that a reasonable employer in the circumstances of the applicant would not ordinarily hire the additional inexperienced employees for operation of new plants, expansion of plant or rehabilitation of idle plant capacity, or (b) that the applicant would be so unnecessarily burdened by hiring the additional inexperienced employees to replace normal plant labor turn-over as to make probable a resultant curtailment of opportunities for employment. This showing may be made in the accounting or statistical terms used by the applicant in his business enterprise on the appropriate form, but if practicable, all cost data should be stated in terms of cost per unit of product. The unit of product in which such showing is made should be the one customarily used in the applicant's business. The application, thus, should show applicant's need for a certificate in terms of labor, material cost, and other costs per unit of product.

VII. Procedure Upon Learner's Application

The procedure adopted by the Wage and Hour Division for consideration of applications for the employment of learners and the issuance of certificates is contained in the accompanying regulations. This procedure provides that applications may be acted upon individually or considered jointly where the applications concern plants similarly situated. In addition, the Division may, prior to granting an application, call an industry hearing to consider questions of fact common to an industry.

[F. R. Doc. 39-1754; Filed, May 22, 1939; 11:12 a. m.]

[1] If in doubt whether an industry hearing has been held, address an inquiry to the Wage and Hour Division, Department of Labor, Washington, D. C.

TITLE 31—MONEY AND FINANCE: TREASURY

ACCOUNTS AND DEPOSITS

[Supplement 1, Department Circular No. 327 (rev.)]

REGULATIONS AND INSTRUCTIONS GOVERNING THE ISSUE OF DUPLICATES OF CHECKS OF THE UNITED STATES

MAY 18, 1939.

Subsections (b) and (d) of Section 3 of Treasury Department Circular No. 327 (revised), dated October 16, 1937,[1] are hereby amended to read as follows:

(b) If substantially the entire check is presented and surrendered by the owner or holder and the Secretary of the Treasury is satisfied as to the identity of the check presented and that any missing portions are not sufficient to form the basis of a valid claim against the United States; and in such cases the 30-day waiting period provided herein is waived, and in cases where the circumstances justify such action a letter of application or submitted affidavit may be accepted in lieu of Form 2244–b or Form 2244–c;

(d) If the amount of the check is less than $50, and the Secretary of the Treasury is satisfied that the giving of a bond of indemnity would be an undue hardship to the owner or holder; where the amount of the check is not more than $25 and the check has not been endorsed by the payee, it will ordinarily be presumed that the giving of a bond of indemnity would be an undue hardship to the owner;

The last paragraph of Section 3 is hereby amended to read as follows:

In cases falling within the provisions of subsection (a), (b), except as hereinbefore provided, (c), (d), and (e) of this Section, application for the issuance of a duplicate check without a bond of indemnity shall be made on Form 2244–b or 2244–c. Additional affidavits and evidence may be required.

[SEAL] JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39-1746; Filed, May 20, 1939; 11:28 a. m.]

PUBLIC DEBT SERVICE

[1939—Department Circular No. 610]

HOME OWNERS' LOAN CORPORATION 1½ PERCENT BONDS, SERIES M–1945–47

OFFERED ONLY IN EXCHANGE FOR HOME OWNERS' LOAN CORPORATION SERIES B, 2¼ PERCENT BONDS, 1939–49, CALLED FOR REDEMPTION ON AUGUST 1, 1939

I. Offering of Bonds

1. The Secretary of the Treasury, on behalf of the Home Owners' Loan Corporation, invites subscriptions, at par, from the people of the United States for bonds of the Home Owners' Loan Corporation, designated 1½ percent bonds of Series M–1945–47, in payment of

[1] 2 F.R. 2241.

which only Home Owners' Loan Corporation Series B, 2¾ percent bonds, 1939–49, called for redemption on August 1, 1939, may be tendered. The amount of the offering under this circular will be limited to the amount of Home Owners' Loan Corporation bonds of Series B, 1939–49, tendered and accepted. The right is reserved to offer for cash subscription, upon such terms and conditions as may be prescribed by the Home Owners' Loan Corporation with the approval of the Secretary of the Treasury, an additional amount of bonds of Series M–1945–47 approximately equal to the amount of bonds of Series B, 1939–49, not tendered and accepted hereunder.

II. Description of Bonds

1. The bonds will be dated June 1, 1939, and will bear interest from that date at the rate of 1½ percent per annum, payable semiannually on December 1, 1939, and thereafter on June 1 and December 1 in each year until the principal amount becomes payable. They will mature June 1, 1947, but may be redeemed at the option of the Home Owners' Loan Corporation on and after June 1, 1945, in whole or in part, at par and accrued interest, on any interest day or days, on 2 months' notice of redemption given in such manner as the Corporation shall prescribe. In case of partial redemption, the bonds to be redeemed will be determined by such method as may be prescribed by the Corporation. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

2. These bonds are issued under the authority of the Home Owners' Loan Act of 1933, as amended, which provides that these bonds shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any District, Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

3. These bonds are fully and unconditionally guaranteed both as to interest and principal by the United States of America, which guaranty is expressed on the face of each bond.

4. Bearer bonds with interest coupons attached will be issued in denominations of $25, $50, $100, $500, $1,000, $5,000, $10,000 and $100,000. Bonds registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000 and $100,000. Provisions will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Corporation.

III. Subscription and Allotment

1. Subscriptions will be received at the Federal Reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of bonds applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. Payment

1. Payment at par for bonds allotted hereunder must be made or completed on or before June 1, 1939, or on later allotment, and may be made only in Home Owners' Loan Corporation 2¾ percent bonds of Series B, 1939–49, which will be accepted at par and should accompany the subscription. Subject to the conditions of the next succeeding section, containing instructions with respect to the surrender of called bonds, accrued interest from February 1, 1939, to June 1, 1939 ($9.116022 per $1,000), will be paid following acceptance of the bonds.

V. Surrender of Called Bonds

1. *Coupon bonds.* Home Owners' Loan Corporation 2¾ percent bonds of Series B, 1939–49, in coupon form tendered in payment for Home Owners' Loan Corporation bonds offered hereunder, should be presented and surrendered with the subscription to a Federal Reserve bank or branch or to the Treasurer of the United States, Washington, D. C. Coupons dated August 1, 1939, and all coupons bearing subsequent dates should be attached to such bonds when surrendered, and if any such coupons are missing, the subscription must be accompanied by cash payment equal to the face amount of the missing coupons. The bonds must be delivered at the expense and risk of the holder. Facilities for transportation of bonds by registered mail insured may be arranged between incorporated banks and trust companies and the Federal Reserve banks, and holders may take advantage of such arrangements when available, utilizing such incorporated banks and trust companies as their agents.

2. *Registered Bonds.* Home Owners' Loan Corporation 2¾ percent bonds of Series B, 1939–49, in registered form tendered in payment for Home Owners' Loan Corporation bonds offered hereunder, should be assigned by the registered payee or the assignee thereof in one of the forms hereafter set forth, and thereafter should be presented and surrendered with the subscription to a Federal Reserve bank or branch or to the Treasury Department, Division of Loans and Currency, Washington, D. C. The bonds must be delivered at the expense and risk of the holder. If the new bonds are desired registered in the same name as the bonds surrendered, the assignment should be to "Home Owners' Loan Corporation in payment for Home Owners' Loan Corporation bonds of Series M–1945–47"; if the new bonds are desired registered in another name, the assignment should be to "Home Owners' Loan Corporation in payment for Home Owners' Loan Corporation bonds of Series M–1945–47 in the name of ----------"; if new bonds in coupon form are desired, the assignment should be to "Home Owners' Loan Corporation in payment for Home Owners' Loan Corporation bonds of Series M–1945–47 in coupon form to be delivered to ----------." Checks in payment of accrued interest on registered bonds will be drawn in accordance with the assignments.

VI. General Provisions

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve banks of the respective districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 39–1762; Filed, May 22, 1939; 12:21 p. m.]

TITLE 46—SHIPPING

UNITED STATES MARITIME COMMISSION

[General Order No. 15, Sup. 10, corrected]

MINIMUM MANNING SCALES FOR THE S. S. "MARIPOSA" AND S. S. "MONTEREY," SUBSIDIZED VESSELS OF THE OCEANIC STEAMSHIP COMPANY

At a regular session of the United States Maritime Commission held at its offices in Washington, D. C., on the 5th day of May 1939.

The Commission having adopted, pursuant to Section 301 (a) of the Merchant Marine Act, 1936, General Order No. 15 [1] providing for minimum wage scales, minimum manning scales, and reasonable working conditions for all subsidized vessels, and having adopted Supplement No. 10,[2] to such General Order No. 15, on the 31st day of January 1939, such Supplement governing the minimum manning scales for the S. S. *Mariposa* and S. S. *Monterey;* and now desiring to correct such minimum manning scales on the two mentioned vessels; and

The Commission finding that such correction is but a matter of form and will avoid confusion which might result from a listing in the minimum manning scale inconsistent with the established classification of such employees by the Operator, and which has heretofore been the basis for collective bargaining; it is, therefore

Ordered, That such minimum manning scales as were adopted for the S. S. *Mariposa* and S. S. *Monterey* on the 31st day of January 1939, be and are hereby corrected in the following respect only:

The three (3) fire patrolmen heretofore listed under the Deck Department under Supplement No. 10 are removed therefrom and listed under the Steward's Department, and such corrected minimum manning scales shall be as follows:

Minimum Manning Scale To Be Observed on the Vessels "Mariposa" and "Monterey" of the Oceanic Steamship Company

Rating:	*Minimum*
Deck department:	
Master	1
Chief Mate	1
Senior Second Mate	1
Second Mate	1
Third Mate	1
Cadet Officers or Cadets	[1] 3
Radio Operators	3
Carpenter	1
Boatswain	1
Quartermasters	6
Able Seamen	18
Ordinary Seamen	7
Engine department:	
Chief Engineer	1
First Assistant Engineer	1
Second Assistant Engineer	1
Senior Third Assistant Engineer	1
Third Assistant Engineer	1
Engineer Cadet Officers or Cadets	[1] 3
Engine department—Continued.	*Minimum*
Licensed Junior Engineers	[2] 3
Unlicensed Junior Engineers	7
Refrigerating Engineers	3
Electricians	3
Plumber	1
Oilers	6
Firemen	9
Wipers	[2] 5
Steward's department:	
Steward	1
Chief Cook	1
Assistant Cook	1
Butcher	1
Baker	1
Fire Patrolmen	3
Scullions	2
Messmen	10

[1] It shall not constitute a violation of this Manning Scale to detail any Cadet Officer or Cadet required to be carried hereby, to shore training after notice to, and approval by, the Director of the Division of Maritime Personnel of this Commission, and in such case entry shall be made in the official log book to this effect and no replacements of such Cadet Officers or Cadets shall be required. Such cadets also may be removed from vessel's complement at any time upon notice to the operator by the Director of the Division of Maritime Personnel, and such action shall not constitute a violation of this Manning Scale.

[2] The Engineers and Wipers required by this Manning Scale are ratings covered by, and in no sense additions to, the respective ratings provided for by the Manning Scales set forth in General Order No. 15, issued October 21, 1937.

GENERAL NOTE.—Requirements of this Manning Scale will be deemed satisfied in the event that an employee is carried whose rating in the same department is superior to the rating prescribed.

Requirements of this Manning Scale for Engineer Cadet Officers or Cadets will be deemed satisfied to the extent that, and so long as, more than 3 presently employed deck cadets are carried.

By order of United States Maritime Commission.

[SEAL] W. C. PEET, JR.,
Secretary.

[F. R. Doc. 39-1753; Filed, May 22, 1939; 11:09 a. m.]

[1] 2 F.R. 2257.
[2] 4 F.R. 947 DI

Notices

TREASURY DEPARTMENT.

Accounts and Deposits.

[1939 Department Circular No. 570 Rev.]

CORPORATIONS ACCEPTABLE AS SURETIES ON FEDERAL BONDS

MAY 18, 1939.

The following is a list of companies holding certificates of authority from the Secretary of the Treasury, issued under the Acts of Congress of August 13, 1894 (28 Stat. 279), and March 23, 1910 (36 Stat. 241), as acceptable sureties on Federal bonds; this list also includes acceptable reinsurance companies under Department Circular No. 297, dated July 5, 1922, as amended. Further details including the amount of underwriting limitation of each company, as well as the extent and localities with respect to which they are acceptable as sureties on Federal bonds may be found at any time by reference to the current issue of Treasury Department Form 356, copies of which may be procured from the Treasury Department, Section of Surety Bonds, Washington, D. C.

NAMES OF COMPANIES, LOCATIONS OF PRINCIPAL EXECUTIVE OFFICES, AND STATES IN WHICH INCORPORATED

California

1. Associated Indemnity Corporation, San Francisco.
2. Fireman's Fund Indemnity Co., San Francisco.
3. National Automobile Insurance Co., Los Angeles.
4. Occidental Indemnity Co., San Francisco.
5. Pacific Indemnity Co., Los Angeles.

Connecticut

6. The Aetna Casualty and Surety Co., Hartford.
7. The Century Indemnity Co., Hartford.
8. Hartford Accident and Indemnity Co., Hartford.

Delaware

9. Mellbank Surety Corporation, Pittsburgh, Pa.
10. Saint Paul-Mercury Indemnity Co., St. Paul, Minn.

Illinois

11. American Motorists Insurance Co., Chicago.

Indiana

12. Continental Casualty Co., Chicago, Ill.
13. Inland Bonding Co., South Bend.

Kansas

14. The Kansas Bankers Surety Co., Topeka.
15. The Western Casualty and Surety Co., Fort Scott.

Maryland

16. American Bonding Co. of Baltimore.
17. Fidelity and Deposit Co. of Maryland, Baltimore.
18. Maryland Casualty Co., Baltimore.
19. United States Fidelity and Guaranty Co., Baltimore.

Massachusetts

20. American Employers' Insurance Co., Boston.
21. Massachusetts Bonding and Insurance Co., Boston.

Michigan

22. National Casualty Co., Detroit.
23. Standard Accident Insurance Co., Detroit.

Missouri

24. Central Surety and Insurance Corporation, Kansas City.
25. Employers Reinsurance Corporation, Kansas City.

New Hampshire

26. Peerless Casualty Co., Keene.

New Jersey

27. Commercial Casualty Insurance Co., Newark.

28. The Excess Insurance Co. of America, New York, N. Y.
29. International Fidelity Insurance Co., Jersey City.

New York

30. American Re-Insurance Co., New York.
31. American Surety Co. of New York.
32. Columbia Casualty Co., New York.
33. Eagle Indemnity Co., New York.
34. The Fidelity and Casualty Co. of New York.
35. General Reinsurance Corporation, New York.
36. Glens Falls Indemnity Co., Glens Falls.
37. Globe Indemnity Co., New York.
38. Great American Indemnity Co., New York.
39. The Home Indemnity Co., New York.
40. London & Lancashire Indemnity Co. of America, Hartford, Conn.
41. Merchants Indemnity Corporation of New York.
42. The Metropolitan Casualty Insurance Co. of New York, Newark, N. J.
43. National Surety Corporation, New York.
44. New Amsterdam Casualty Co., Baltimore, Md.
45. New York Casualty Co., New York.
46. Phoenix Indemnity Co., New York.
47. The Preferred Accident Insurance Co. of New York.
48. Royal Indemnity Co., New York.
49. Seaboard Surety Co., New York.
50. Standard Surety and Casualty Co. of New York.
51. Sun Indemnity Co. of New York.
52. United States Casualty Co., New York.
53. United States Guarantee Co., New York.
54. The Yorkshire Indemnity Co. of New York.

Ohio

55. The Ohio Casualty Insurance Co., Hamilton.

Pennsylvania

56. Eureka Casualty Co., Philadelphia.
57. Indemnity Insurance Co. of North America, Philadelphia.
58. Mellon Indemnity Corporation, Pittsburgh.

South Dakota

59. Western Surety Co., Sioux Falls.

Texas

60. American General Insurance Co., Houston.
61. American Indemnity Co., Galveston.
62. Commercial Standard Insurance Co., Fort Worth.
63. Employers Casualty Co., Dallas.
64. Texas Indemnity Insurance Co., Galveston.
65. Trinity Universal Insurance Co., Dallas.

Virginia

66. Virginia Surety Co., Inc., Roanoke.

Washington

67. General Casualty Co. of America, Seattle.
68. Northwest Casualty Co., Seattle.
69. United Pacific Insurance Co., Seattle.

FOREIGN COMPANIES AUTHORIZED TO DO A REINSURANCE BUSINESS ONLY

70. Accident and Casualty Insurance Co. of Winterthur, Switzerland (U. S. Office, New York, N. Y.).
71. The Employers' Liability Assurance Corp., Ltd., London, England (U. S. Office, Boston, Mass.).
72. The European General Reinsurance Co., Ltd., London, England (U. S. Office, New York, N. Y.).
73. The Guarantee Co. of North America, Montreal, Canada (U. S. Office, New York, N. Y.).
74. London Guarantee and Accident Co., Ltd., London, England (U. S. Office, New York, N. Y.).
75. The Ocean Accident and Guarantee Corp., Ltd., London, England (U. S. Office, New York, N. Y.).

[SEAL] JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39-1747; Filed, May 20, 1939; 11:28 a. m.]

Federal Alcohol Administration Division.

USE OF "RIESLING" AND OTHER GRAPE VARIETY NAMES

To all producers, blenders, and bottlers of wine:

Section 23 of Regulations No. 4,[1] Relating to Labeling and Advertising of Wine, provides that a name indicative of a variety of grape may be employed as the type designation of a grape wine only if the wine derives its predominant taste, aroma, and characteristics, *and at least 51% of its volume*, from that variety of grape.

The Administration has heretofore issued certificates of label approval for wine labels bearing the designations "American Riesling," "California Riesling," and other grape variety names. These certificates validate the bottling of the particular wine under the names appearing on such labels only if the contents of the container conform to the statements made upon the labels. The Administration has reason to believe that in a great many instances the requirements as to grape variety content are not being observed, particularly in cases where the actual bearing acreage of a given variety is small.

Accordingly, the Administration wishes to advise that persons responsible for the labeling of wine in this manner must be prepared to show, upon request, that the requirements of section 23 of Regulations No. 4 are being observed. Wine producers, bottling these varieties, should possess suitable evidence showing purchase of a sufficient tonnage of the particular grape variety to make the amount of wine on hand, and should be prepared to establish the date of the purchase, the name of the grower, and the location of the vineyards in which such grapes were grown. In the case of bottlers who purchase Riesling wine with the idea of blending it with 49% other wines and labeling the resulting products as "Riesling," suitable evidence should be on hand showing that the original wine was made wholly from Riesling grapes.

Wine bottlers who feel that they could with more propriety label their wines as "Rhine Wine," "Hock," or "Dry White Wine," instead of as "Riesling," should make immediate application to the Administration for approval of labels of wine under those designations.

[SEAL] W. S. ALEXANDER,
Administrator.

MAY 20, 1939.

[F. R. Doc. 39-1752; Filed, May 22, 1939; 9:58 a. m.]

[1] 1 F.R. 85.

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW OF DETERMINATION DENYING APPLICATIONS FOR PERMISSION TO EMPLOY LEARNERS IN THE APPAREL INDUSTRY AT WAGES LOWER THAN APPLICABLE MINIMUM SPECIFIED IN SECTION 6 OF THE FAIR LABOR STANDARDS ACT

Whereas The National Association of Shirt and Pajama Manufacturers, Inc., and sundry other parties pursuant to Part 522[1] (Regulations applicable to the Employment of Learners pursuant to Section 14 of the Fair Labor Standards Act) made application for permission to employ learners in the apparel industry at wages lower than the applicable minimum wage specified in Section 6 of the Act; and

Whereas a hearing[2] on said application was held before Merle D. Vincent, the representative of the Administrator of the Wage and Hour Division, duly authorized to conduct the said hearing and to determine—

(a) What if any occupation or occupations in the apparel industry require a learning period, and

(b) Whether it is necessary in order to prevent curtailment of opportunities for employment to provide for the employment of persons in occupations requiring a learning period at wage rates lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938, and

(c) If such necessity is found to exist, at what wages lower than the minimum wage applicable under Section 6, such

[1] 3 F.R 2484, 2661 DI.
[2] 3 F.R. 2790 DI.

employment of learners shall be permitted, and with what limitations as to time, number, proportion and length of service.

and

Whereas following such hearing the said Merle D. Vincent duly made his findings of fact and determined as follows:

"I. With respect to the question "What if any occupation or occupations in the apparel industry require a learning period," a learning period has been shown to be applicable to stitching operations. The unskilled operations in the industry involve no period of training. Moreover the minimum rate established in the Act was designed to cover unskilled labor in all circumstances. The skilled occupations of cutting and pressing are paid at rates generally above the statutory minimum. Training in the simple stitching operations at which a beginner is started includes a modicum of skill and involves chiefly a period of acquiring dexterity and speed. In a learning period in this occupation a learner is enabled to acquire dexterity and speed by means of which he can earn more than the minimum rate. A learning period for this occupation, therefore, may in special cases make a subminimum rate justifiable to prevent curtailment of opportunity for employment. Applications for learner rates in other occupations can be considered only in the light of the fairly general agreement at the hearing that machine operators were chiefly involved in the learner applications.

II. With respect to the question "Whether it is necessary in order to prevent curtailment of opportunities of employment to provide for the employment of persons in occupations requiring a learning period at wage rates lower than the minimum wage applicable under Section 6," the record makes evident that the applicants have failed to prove that a denial of their application for the employment of learners at a subminimum rate in any apparel group as a whole would cause curtailment of opportunities for employment. The applications as presented by industry groups are therefore denied.

It seems clear, however, that lest this industry denial result in curtailment of opportunity for employment in particular cases in these groups, provision must be made for considering individual applications. Each case must be separately decided in the light of the special circumstances surrounding it and the competitive effects upon the industry.

Certain general findings have been made which bear upon the consideration of individual cases.

1. Upon the record it must be found that failure to grant certificates at less than the minimum rate to replace normal labor turnover and for seasonal pick-up will not in general result in the curtailment of opportunities for employment. The typical plant in the industry finds experienced help available. This is true whether the turnover is due to normal and regular causes of change of job, illness, etc., or is accentuated by seasonal fluctuations. When a plant does have to replace workers who quit or are discharged with inexperienced workers, the process of replacement is a gradual one and as a rule the cost of training is a small fractional part of the total labor cost and a still lower percentage of the over-all cost of maintaining production to meet market demands. It cannot be said that such cost can seriously affect employment opportunities.

2. Excepting for the above limitations, special certificates authorizing the employment of learners for a limited period at rates below the minimum may be found necessary to prevent curtailment of employment:

a. When in the establishment of a new plant outside of settled industrial areas, where experienced help is not available, management is under the necessity of training a considerable body of inexperienced workers within a short period, and satisfactory proof is made that otherwise a curtailment of opportunities for employment will occur;

b. When an established plant is expanding by the installation of additional machine equipment, in localities where a supply of trained workers is not available, and such expansion will not otherwise occur; and

c. When experienced labor is not available to expand production and employment in an established factory in response to expanding market demand, and idle facilities are again to be brought into use, and when the facts also show that employment will be curtailed unless special certificates are issued authorizing the employment of learners at rates less than the minimum. Such expansion is to be clearly distinguished from a rise in production or employment due to periodic fluctuations of market demand.

III. In regard to the question "If such necessity is found to exist, at what wages lower than the minimum applicable under Section 6, such employment of learners shall be permitted, and with what limitations as to time, number, proportion and length of services," the findings are that the following terms for special certificates for the employment of learners at less than the statutory minimum rate should be established:

1. A learner shall not include any person previously employed for more than 8 weeks in the aggregate during the preceding 3 years in the apparel industry. This limitation is essential to prevent the application of a subminimum wage in order to avoid payment of the minimum to workers who may have missed a season or two but who have had considerable recent experience in the industry.

2. The learning period shall be no more than 8 weeks for each worker. An employer receiving a special learners' certificate may utilize the conditions granted for a period of 12 weeks, provided no individual learner is paid less than the applicable minimum rate after he has completed in the aggregate 8 weeks of employment. New learners may be added or substituted within the 12 week period; but the certificate becomes null and void 12 weeks after issue. A new application, if any, must then be made by each applicant.

3. In order to determine whether an employee is in fact engaged in learning an operation and to prevent the payment of subminimum wages to employees who are no longer learners, learners must be paid the same piece rates paid workers already employed on similar work in the establishment. On this basis some learners will earn and be paid more than the minimum before the authorized learning period has expired.

4. In order to give learners the protection of the wage provisions of the Act in accordance with the terms of Section 14, a learner shall receive at least 75% of the applicable minimum rate.

5. Since special certificates will be issued only in accordance with the facts shown in individual cases and as a rule for expansion in the use of old and in the installation of new facilities which expand employment, the number of learners authorized in each case will depend upon the circumstances of such expansion.

If certificates are issued for a new plant to be established or for an old plant which is adding additional machine equipment, the number of learners authorized will presumably correspond to the number of machines to be put into operation, provided no part of the workers needed can be found among experienced operators. When machinery recently idle is to be brought into use and facts justify the issuance of special certificates, the number of learners authorized will relate to the idle facilities which are again to be brought into production. In all cases the number of learners to be paid at subminimum rates will be definitely specified in the certificate.

IV. It is, therefore, recommended that Regulations be issued under which individual employers may make application for Special Certificates for the employment of learners at a wage rate less than the minimum wage provided in Section 6 of the Act. In order that the Administrator may be able to determine whether there will be a curtailment of opportunities for employment if such a certificate is not granted to any applicant, each employer should be required to make application on forms furnished by the Division which will elicit facts and reasons necessary for a decision upon the application in accordance with the Regulations."

and therefore denied the applications; and

Whereas said Findings and Determination were duly filed with the Administrator on May 20, 1939, and are now on file in his office, Room 5144, Department of Labor Building, Washington, D. C., and available for examination by all interested parties:

Now, therefore, pursuant to the provisions of Section 522.13 of the aforesaid regulations, as amended, notice is hereby given that any person aggrieved by the said determination may, within fifteen days after the date this notice appears in the FEDERAL REGISTER, file petitions with the Administrator requesting that he review the determination of the said representative.

Signed at New York, N. Y., this 20th day of May, 1939.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 39–1755; Filed, May 22, 1939; 11:12 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT–5549]

IN THE MATTER OF MEMPHIS POWER & LIGHT COMPANY

ORDER FIXING DATE OF HEARING

MAY 20, 1939.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, John W. Scott. Basil Manly not participating.

Upon application filed May 12, 1939, by Memphis Power & Light Company, a corporation having its principal office at 179 Madison Avenue, Memphis, Tennessee, for authorization pursuant to Section 203 of the Federal Power Act to sell certain of its electric facilities to the City of Memphis, Tennessee, a municipal corporation organized and existing under the laws of the State of Tennessee, and to the Tennessee Valley Authority, a corporation created and now existing under the Tennessee Valley Authority Act of 1933, without requiring the applicant to give local notice by publication of the proposed sale;

It appearing that:

(a) A public hearing will provide a convenient means of enabling the Commission to obtain additional information necessary to enable it to pass upon the said application and will afford the opportunity for hearing required by the Federal Power Act;

(b) The notices heretofore given and hereby and hereafter to be given by this Commission, including notice given by publication in the FEDERAL REGISTER of less than 15 days prior to date set for hearing, will be sufficient and reasonable;

The Commission orders that:

(A) A hearing on the said application be held at 10 o'clock a. m. June 1, 1939, in the Commission's Hearing Room, 1757 K Street NW., Washington, D. C.;

(B) The applicant not be required to give notice by publication.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R Doc. 39–1760; Filed, May 22, 1939; 11:41 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of May, A. D. 1939.

[File No. 31–442]

IN THE MATTER OF FEDERAL LIGHT & TRACTION COMPANY AND CITIES SERVICE POWER & LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the abovenamed parties;

It is ordered, That a hearing on such matter be held on June 8, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 3, 1939.

The matter concerned herewith is in regard to an application for an order under Section 2 (a) (8) of the Public Utility Holding Company Act of 1935 declaring Cowlitz Chehalis and Cascade Railway Company not to be a subsidiary of Federal Light & Traction Company nor of Cities Service Power and Light Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–1756; Filed, May 22, 1939; 11:37 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of May, A. D. 1939.

[File No. 31–443]

IN THE MATTER OF FEDERAL LIGHT & TRACTION COMPANY AND CITIES SERVICE POWER & LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the abovenamed parties;

It is ordered, That a hearing on such matter be held on June 8, 1939, at 10:30 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in request of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 3, 1939.

The matter concerned herewith is in regard to an application for an order under Section 2 (a) (8) of the Public Utility Holding Company Act of 1935 declaring Raymond Holding Company not to be a subsidiary of Federal Light

& Traction Company nor of Cities Service Power & Light Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39–1759; Filed, May 22, 1939; 11:37 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22d day of May, A. D., 1939.

[File No. 32–143]

IN THE MATTER OF PETOSKEY GAS COMPANY AND AMERICAN UTILITIES SERVICE CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 6 (b), 10 (a) (1) and 12 (d) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on June 8, 1939, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 1, 1939.

The matter concerned herewith is in regard to the proposed issue and sale for cash of 6% income notes, due November 1, 1965, in the principal amount of $23,500 by Petoskey Gas Company to its parent company, American Utilities Service Corporation, a registered holding company. The cash proceeds are to be used by Petoskey in discharge of its open-account indebtedness in like principal amount owed to American Utilities.

Also proposed is the issue by Petoskey of 5,000 shares of common stock having a par value of $10 per share. This stock is to be received by American Utilities in reduction of the note indebtedness of $160,000 principal amount owed to it by Petoskey.

The note indebtedness of Petoskey to American Utilities after reduction by the issue of the aforementioned stock is to be forgiven and this amount ($110,000) is to be shown as donated surplus on the books of Petoskey.

Securities received by American Utilities Service Corporation will be pledged under the trust indenture which secures American Utilities Service Corporation Collateral Trust 6% Bonds, Series A.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39–1758; Filed, May 22, 1939; 11:37 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of May, A. D. 1939.

[File No. 43–202]

IN THE MATTER OF THE COMMONWEALTH & SOUTHERN CORPORATION, TENNESSEE UTILITIES CORPORATION, THE TENNESSEE ELECTRIC POWER COMPANY, SOUTHERN TENNESSEE POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

Applications and/or declarations pursuant to sections 6 (b), 7, 10, 12 (c), 12 (d) and 12 (f) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on June 7, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 2, 1939.

The matter concerned herewith is in regard to the dissolution of The Tennessee Electric Power Company and Southern Tennessee Power Company, both of which are subsidiaries of The Commonwealth & Southern Corporation, a registered holding company, and the transfer of the physical assets of said two companies to Tennessee Utilities Corporation, organized under the laws of Tennessee on April 18, 1939, which will become a subsidiary of The Commonwealth & Southern Corporation. The dissolution of The Tennessee Electric Power Company and Southern Tennessee Power Company and transfer of their physical assets to Tennessee Utilities Corporation are steps preliminary to the consummation of a sale agreement executed on May 12, 1939, between The Commonwealth & Southern Corporation and Tennessee Valley Authority and other public agencies pursuant to which The Commonwealth & Southern Corporation agrees to sell substantially all the electric properties of The Tennessee Electric Power Company and Southern Tennessee Power Company. It is proposed that Tennessee Utilities Corporation will acquire such property as a part of the liquidation of said companies and will discharge the obligation of the seller under the sale agreement heretofore mentioned.

The applications and/or declarations filed by the above named parties are concerned with the following:

(1) Tennessee Utilities Corporation will issue $9,400,000 aggregate par value of its common stock to The Commonwealth & Southern Corporation in exchange for 422,261.35 shares, being 99.35%, of the outstanding shares of common stock of The Tennessee Electric Power Company and for 10 shares, being all of the outstanding shares of capital stock, of Southern Tennessee Power Company. Tennessee Utilities Corporation will thus become the parent of The Tennessee Electric Power Company and Southern Tennessee Power Company.

(2) The release of the electric properties now owned by The Tennessee Electric Power Company from the liens of various mortgages. In this connection the outstanding bonds of The Tennessee Electric Power Company will be "paid" with accrued interest with funds to be advanced by The Commonwealth & Southern Corporation and/or Tennessee Utilities Corporation. Said bonds consist of:

First and Refunding Mortgage Bonds:	
6% Series due 1947	$20,569,300
5% Series due 1956	19,221,500
Divisional Bonds	8,333,000
Total	48,123,800

Pursuant to an Escrow Agreement dated as of March 1, 1939, it is proposed to "pay" the First and Refunding Mortgage

Bonds at the principal amount thereof plus accrued interest thereon.

(3) Upon the dissolution of the Tennessee Electric Power Company the holders of the outstanding shares of First Preferred Stock will receive $100 per share, plus unpaid dividends accumulated and accrued thereon.

(4) Upon dissolution of The Tennessee Electric Power Company and Southern Tennessee Power Company the physical assets of said companies will be transferred to Tennessee Utilities Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–1757; Filed, May 22, 1939; 11:37 a. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS MONDAY, MAY 15, 1939

Important. Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	612	41
2. Hawaii	146	16
3. California	2,251	795
4. Alaska	23	9
5. Texas	2,309	925
6. Louisiana	833	389
7. Michigan	1,920	913
8. Arizona	173	88
9. New Jersey	1,602	855
10. South Carolina	689	395
11. Ohio	2,635	1,587
12. Mississippi	797	488
13. Oklahoma	950	588
14. Alabama	1,049	654
15. New Mexico	168	105
16. Arkansas	735	467
17. Georgia	1,153	770
18. Kentucky	1,037	699
19. North Carolina	1,257	873
20. Tennessee	1,037	802
21. Illinois	3,025	2,346
22. Wisconsin	1,165	910
23. Connecticut	637	500
24. Delaware	94	81
25. Indiana	1,284	1,129
26. Oregon	378	343
27. Nevada	36	33
28. Florida	582	539
29. Idaho	176	166
30. New York	4,991	4,772
31. Pennsylvania	3,818	3,668
32. New Hampshire	184	179
33. West Virginia	686	677
34. Maine	316	312
35. Massachusetts	1,685	1,683
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IN EXCESS		
36. Utah	201	203
37. Missouri	1,439	1,469
38. Vermont	143	147
39. Washington	620	640
40. Wyoming	89	92
41. Colorado	411	425
42. Montana	213	225
43. Kansas	746	807
44. Rhode Island	273	304
45. South Dakota	275	307
46. North Dakota	270	302
47. Minnesota	1,016	1,153
48. Iowa	980	1,123
49. Nebraska	546	654
50. Virginia	960	1,991
51. Maryland	647	1,992
52. Dist. of Col	193	8,825

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1938
36. Utah	201	203	+12
37. Missouri	1,439	1,469	−42
38. Vermont	143	147	−2
39. Washington	620	640	+47
40. Wyoming	89	92	+10
41. Colorado	411	425	+16
42. Montana	213	225	−15
43. Kansas	746	807	+41
44. Rhode Island	273	304	+30
45. South Dakota	275	307	+4
46. North Dakota	270	302	+36
47. Minnesota	1,016	1,153	+44
48. Iowa	980	1,123	−13
49. Nebraska	546	654	−5
50. Virginia	960	1,991	+3
51. Maryland	647	1,992	+105
52. Dist. of Col	193	8,825	+56

GAINS	
By appointment	691
By reinstatement	2
By transfer	20
Total	713
LOSSES	
By separation	65
By transfer	38
Total	103
Total appointments	49,456

Note. Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's Opinion of Aug. 25, 1934, 14,949.

By direction of the Commission.

[SEAL] L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 39–1745; Filed, May 20, 1939; 9:29 a. m.]